

## **IBP, inc. Civil Settlement**

### **Fact Sheet**

**October 12, 2001**

**Overview:** Today's settlement resolves violations by IBP inc. of the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES), the Clean Air Act (CAA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), and the Emergency Planning & Community Right-To-Know Act (EPCRA), at its facility in Dakota City, Neb., and at other facilities in Nebraska, Texas, Iowa, and Kansas.

The settlement commits IBP inc. to corrective action valued at approximately \$10 million to make environmental improvements that will reduce water and air emissions. Specifically IBP has committed to construct additional wastewater treatment systems to reduce its discharges of ammonia to the Missouri river, and has agreed to continue and expand improvements ordered last year that will significantly reduce hydrogen sulfide air emissions. The company also has agreed to pay a \$4.1 million civil penalty.

### **Background**

- IBP's Dakota City, facility consists of a beef slaughterhouse, rendering operations, tannery and wastewater treatment facility.
- Five thousand cattle a day are processed at IBP's Dakota City slaughterhouse, and the tannery processes those hides and a similar amount of uncured hides from other IBP facilities daily.
- Wastewater from IBP's slaughterhouse and tannery is processed in a wastewater treatment plant owned and operated by IBP and located one mile east of the main complex. The wastewater treatment system includes a series of anaerobic covered and uncovered lagoons. Hydrogen sulfide is generated at the wastewater treatment plant and the tannery and released into the air. Significant amounts of ammonia are generated by this facility and discharged into the Missouri River.
- IBP owns or has owned a number of slaughterhouse facilities across the country. Today's action also resolves violations at facilities located in Gibbon, Neb.; West Point, Neb.; Madison, Neb.; Lexington, Neb.; Palestine, Texas; Storm Lake, Iowa; Columbus, Iowa; Denison, Iowa; Council Bluffs, Iowa; Perry, Iowa; Waterloo, Iowa; South Hutchinson, Kan.; Emporia, Kan.; and Holcomb, Kan.
- On Sept. 28, 2001, IBP, was acquired by Tysons Foods Inc.

### **Violations**

- EPA filed a complaint on Jan. 12, 2000, alleging violations of numerous laws at the Dakota City facility for more than a decade, including:

**CERCLA and EPCRA:** Since 1989, IBP has released the hazardous substance, hydrogen sulfide (H<sub>2</sub>S) in quantities above the reportable quantity (100 lbs/day) established by EPA and has failed to report such releases. IBP estimates it has released as much as 1,919 lbs of H<sub>2</sub>S per day.

**CAA:** IBP failed to obtain PSD permits after three major modifications to the facility.

**CWA:** IBP has committed numerous violations of numeric and narrative limitations in its NPDES permit. Most seriously, IBP has had a toxicity problem dating back to 1988, and has failed to properly operate and maintain its wastewater treatment plant.

**RCRA:** IBP until recently failed to manifest off-site shipment of spent gun cartridges containing lead, which is a hazardous substance.

- EPA's complaint seeks injunctive relief and civil penalties for the above past violations.
- An agreement for interim injunctive relief was reached in May 2000 and the first Partial Consent Decree was entered in September 2000, which required IBP to reduce emissions of hydrogen sulfide, and thereby reduce the threat to human health and welfare. The injunctive relief in the settlement was valued at \$13 million. By Nov. 30, 2000, IBP completed construction and placed into operation three new covered anaerobic lagoons. The three new and two existing covered lagoons are connected to a scrubber and flare to remove hydrogen sulfide.

#### **Human Health and Other Impacts**

- Hydrogen sulfide is deadly in high concentrations and chronic exposure to low concentrations can cause a number of adverse health effects, including respiratory problems, headache, nausea, fatigue, eye irritation, and possible neurological problems.
- EPA and Nebraska Department of Environmental Quality (NDEQ) have received numerous complaints of health effects and property damage from citizens living near the Dakota City plant. NDEQ has repeatedly documented concentrations of Total Reduced Sulfur (TRS), which consists primarily of hydrogen sulfide, in the ambient air surrounding the IBP Dakota City facility at levels exceeding Nebraska's health-based standard of 100 parts per billion as a 30-minute average.
- IBP's whole effluent toxicity test results since 1988 indicate that its wastewater discharge is consistently acutely toxic to aquatic life. IBP identified ammonia as the primary cause of toxicity.

#### **Terms of the Proposed Second and Final Consent Decree**

- **Civil penalty:** \$4.1 million. \$1.85 million of the penalty will be shared with the State of Nebraska, a co-plaintiff on the CAA claims, which will direct the money to the local school system. (Under a separate administrative action negotiated with Region 5, IBP agreed to pay an additional \$200,000 to resolve EPCRA/CERCLA violations at its Joslin, Ill., facility concurrently with this settlement.)
- The settlement commits IBP inc. to corrective action valued at approximately \$10 million to make environmental improvements that will reduce water and air emissions:

***Injunctive Relief:*** The current Consent Decree contains injunctive relief to resolve the CWA claims that supplements the injunctive relief previously obtained under the Partial Consent Decree for the CAA claims. The major elements of the current injunctive relief are:

**Dakota City, Neb. Facility:**

1. Design, construct, and properly operate a nitrification system at its wastewater treatment facility on or before July 29, 2003.
2. Meet pre- and post-construction interim limits and monitoring requirements.
3. Staff the wastewater treatment plant 24 hours/day, seven days a week with a certified operator from the time the nitrification system is operational until six months after continuous compliance with the post-construction interim ammonia effluent limits.
4. Assemble and maintain an operating and maintenance manual for the wastewater treatment plant.

**Palestine, Texas, Facility:** IBP completed the following injunctive relief by Oct.12, 2001.

1. Removed and properly disposed of stun gun cartridges on the site and analyzed soil; then removed and properly disposed of the top layer of soil containing spent shell casings at the entrance of the horse kill building.
2. Removed and properly disposed of two piles of scrap metal and debris.
3. Pumped out and properly disposed of: waste in the Imhoff tank, fuel in the above ground fuel tanks, waste in the septic tank, and waste in the lift station.
4. Sampled storm water runoff from the wastewater system.
5. Properly cleaned three transformers.

***Other Commitments:*** IBP agrees to drop its objections to the issuance of a Prevention of Significant Deterioration (CAA) permit and shall not object to EPA's jurisdiction to issue a new NPDES (CWA) permit for the Dakota City facility.

***Supplemental Environmental Projects (estimated value \$3.4 million):***

1. Reduce the sulfur content in the wastewater treated by the wastewater treatment plant and reduce the potential for generating hydrogen sulfide by the wastewater treatment plant. Under the first partial consent decree entered in this case in September 2000, IBP is required to install a reverse osmosis system to remove sulfates from its source water. Under this consent decree, IBP has agreed to operate this system for an additional three years and to submit enhanced reporting of operating information ; and
2. Reduce ammonia discharges to the Missouri River to levels below that required under IBP's current permit, issued in 1995, in anticipation of stricter discharge requirements to be imposed under a new permit to be issued by EPA.

**Health and Environmental Benefits of Second and Final Consent Decree**

- The nitrification system will significantly benefit the environment by reducing the amount of ammonia – a toxic pollutant – being discharged from the Dakota City facility to the Missouri River. After the wastewater treatment plant improvements have been completed, it is estimated that IBP will be discharging a daily average of 4,300 pounds *less ammonia* than they are currently discharging.
- Operating the reverse osmosis system for three additional years will continue to protect public health by reducing the potential to generate hydrogen sulfide. This reduction is important because hydrogen sulfide generated in the covered lagoons is treated by a scrubber and flare that convert the hydrogen sulfide to sulfur dioxide, a lung irritant that is ultimately emitted into the air. Accordingly, treating the incoming well water will result in a dramatic reduction of

sulfur dioxide emissions, as well as an additional net reduction in hydrogen sulfide emissions.

**State Involvement**

- The State of Nebraska has joined EPA as a co-plaintiff on the CAA claims in this action and will receive \$1,850,000 of the civil penalty which it will direct to the local school system.

October 15, 2001 (11:34am)